



LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Part 201

Docket No. 2014-08

Fees for Submitting Corrected Electronic Title Appendices

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Copyright Office published elsewhere in this issue of the Federal Register a final rule amending its regulations to allow remitters to submit title lists in electronic format when recording a document pertaining to 100 or more copyrighted works. As the rule explains, when a remitter submits an electronic title list along with a document for recordation, the Office will use the information in the electronic list to populate its online Public Catalog. In response to comments received during the electronic title list rulemaking, the Office also established a process to allow a remitter to correct inaccuracies in the Office's online Public Catalog resulting from errors in an electronic list submitted by the remitter. In this separate notice of proposed rulemaking, the Office seeks to establish a new fee for this correction service at the rate of seven dollars per corrected title.

DATES: Written comments are due on or before [INSERT DATE THIRTY DAYS FROM DATE OF THIS PUBLICATION].

ADDRESSES: All comments shall be submitted electronically. A comment submission page is posted on the Copyright Office website at

<http://copyright.gov/rulemaking/etitle-fees/>. The website interface requires commenting parties to complete a form specifying their name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, commenting parties must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: a Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes. The form and face of the comments must include both the name of the submitter and organization. The Office will post the comments publicly on the Office's website in the form that they are received, along with associated names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202-707-8350 for special instructions.

FOR FURTHER INFORMATION CONTACT: Sarang V. Damle, Special Advisor to the General Counsel, by email at sdam@loc.gov or by telephone at 202-707-8350, or Abi Oyewole, Attorney-Advisor, by email at aoye@loc.gov or by telephone at 202-707-8350.

SUPPLEMENTARY INFORMATION:

I. Background

Over the past several years, the Copyright Office has sought public input on technological upgrades to the recordation function. *See* 78 FR 17722 (Mar. 22, 2013); 79 FR 2696 (Jan. 15, 2014). In addition to seeking written comments, the Office has held focused discussions with copyright owners, users of copyright records, technical experts, public interest organizations, lawyers, and professional and industry associations

regarding the same. *See* 79 FR 6636 (Feb. 4, 2014). Participants in these processes have expressed a number of concerns about the current recordation system, including frustration with the submission process, the amount of time the Office requires to record remitted documents, and the searchability of the public record. These problems are related in part to the fact that recordation remains a paper-driven process (in contrast to most registration transactions, which occur electronically).¹

To date, recordation specialists have had to review paper documents and manually transcribe selected information from the documents into an electronic format in order to permit indexing in the Office’s online Public Catalog. Among the information that must be transcribed are the titles of copyrighted works associated with a document submitted for recordation, which are typically presented in a list appended to the document, referred to informally as a “title appendix.” A title appendix associated with a document can include hundreds, or even thousands, of titles. The Office attributes the long processing times associated with document recordation in considerable part to the manual entry of these titles. In an effort to reduce processing time for recorded document submissions, on July 16, 2014, the Office proposed a new rule that would, among other things, allow remitters to submit electronic title appendices containing 100 or more titles in electronic format. *See* 79 FR 41470 (July 16, 2014).

The Recording Industry Association of America, Inc., (“RIAA”) commented on the proposed rule, stating, among other things, that the Office should “provide for a

¹ For further information, see the comments obtained during the Copyright Office’s two-year Special Projects process, particularly the Special Project on Technical Upgrades to Registration and Recordation Functions. Comments pertaining to the Special Project on Technological Upgrades to Registration and Recordation Functions are available on the Copyright Office website at http://www.copyright.gov/docs/technical_upgrades/comments/.

mechanism or procedure by which a remitter can easily correct any errors to the electronic title list that the remitter has supplied.”² The Office agreed, and has adopted such a procedure as part of the final electronic title list rule, to be codified at 37 CFR 201.4(c)(4)(v). *See* the final rule entitled “Changes to Recordation Practices” published elsewhere in this issue of the Federal Register. Under the new § 201.4(c)(4)(v), if a remitter discovers that an error in an electronic title list has led to the inaccurate cataloging of a recorded document, it may submit a corrected title list to the Copyright Office in accordance with the procedures set forth in the rule. However, to avoid delay in implementing the electronic title list option, the Office decided to issue that final rule without imposition of a fee for corrections until such time as a fee is set in accordance with this separate notice.³

II. Discussion

Section 708(a) of title 17 authorizes the Register to fix fees for services other than those enumerated in paragraphs (1)-(9) of section 708(a) based on cost and without prior submission to Congress.⁴ *See* 17 U.S.C. 708(a). Fees for Office services that the Register has the discretion to establish based on cost and without Congressional review include fees for copying Office records, fees for mail and delivery services, and fees for special handling. *See* 79 FR 15910, 15916-17 (Mar. 24, 2014). With the rule proposed herein, the Office seeks to adopt a new fee to recover costs associated with the correction

² Recording Industry Ass’n of Am., Inc., Comments Submitted in Response to U.S. Copyright Office’s July 16, 2014 Notice of Proposed Rulemaking (Aug. 15, 2014) (“RIAA Comments”), *available at* <http://copyright.gov/rulemaking/recordation-practices/docket2014-4/comments/RIAA.pdf>.

³ There are already fees in effect for the recordation of the document and processing of associated titles. *See* 37 CFR 201.3(c)(16).

⁴ Fees for core Office services such as registration of a claim, recording a transfer of copyright ownership or other document, issuance of a certificate of registration, and certain other services are to be submitted by the Register to Congress before they take effect. *See* 17 U.S.C. 708(a)-(b).

of errors in the online Public Catalog following recordation of a document where the errors stem from a remitter's inaccurate electronic title list.

Based on a cost analysis, the Office believes that the initial fee for this service should be established at seven dollars per corrected title. The Office arrived at the seven dollar amount by considering the various personnel and systems costs associated with providing the new service. To process a corrected title list, senior recordation staff must first review the nature and extent of corrections, and the Office's accounting staff must process the payment associated with the submission. Then, the corrections must be individually transcribed into the Office's online Public Catalog; this is a labor-intensive process that involves searching for the original entry by volume and document number, finding the title or titles that require correction, and amending and/or adding new titles to the database. Once entered into the online Public Catalog, the resulting changes must be checked to ensure the correction process was successful.

After evaluating the anticipated personnel and overhead expenses that will be incurred to accomplish the above tasks, the Office estimates the average cost to be seven dollars per corrected title. The Office therefore proposes to establish the new fee at that amount.

List of Subjects in 37 CFR Part 201

Copyright.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes amending 37 CFR part 201 as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. In § 201.3, revise paragraph (c)(16) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

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Registration, recordation and related services	Fees (\$)
* * * * *	
(16) Recordation of document, including a notice of intention to enforce (single title)	105
Additional titles (per group of 1 to 10 titles)	35
Correction of online Public Catalog data due to erroneous electronic title submission (per title)	7
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3. In § 201.4, as added elsewhere in this issue of the Federal Register, effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], revise the last sentence of paragraph (c)(4)(v) to read as follows:

§ 201.4 Recordation of transfers and certain other documents.

* * * * *

(c) * * *

(4) * * *

(v) * * * Upon receipt of a corrected electronic list in proper form and the appropriate fee, the Office will proceed to correct the data in the online Public Catalog, and will make a note in the record indicating that the corrections were made and the date they were made.

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Dated: September 11, 2014

Jacqueline C. Charlesworth,
General Counsel and
Associate Register of Copyrights

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